

1 Michael J. McCue
Nevada Bar No. 6055
2 Jonathan W. Fountain
Nevada Bar No. 10351
3 Lewis Roca Rothgerber Christie LLP
3993 Howard Hughes Parkway, Suite 600
4 Las Vegas, Nevada 89169
Telephone: (702) 949-8200
5 E-mail: mmccue@lrrc.com
E-mail: jfountain@lrrc.com
6

Attorneys for Defendants
7 *A Morton Brothers Joint Management, LLC*
8 *A Morton Brothers Joint, LLC*
9 *A Morton Brothers Joint Intellectual Property, LLC*
Michael Morton, and David Morton

10 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

11 MORTON'S OF CHICAGO, INC.,

12 Plaintiff,

13 v.

14 A MORTON BROTHERS JOINT
MANAGEMENT, LLC, A MORTON
15 BROTHERS JOINT LLC, A MORTON
BROTHERS JOINT INTELLECTUAL
16 PROPERTY, LLC, MICHAEL MORTON,
AND DAVID MORTON,
17

18 Defendants.

Case No. 2:17-cv-1043-RFB-VCF

**DEFENDANTS' UNOPPOSED MOTION
FOR EXTENSION OF TIME FOR ALL
DEFENDANTS TO FILE AND SERVE
THEIR ANSWERS OR OTHER
RESPONSES TO THE COMPLAINT**

(Fourth Request)

1 Pursuant to LR IA 6-1, Defendants A Morton Brothers Joint Management, LLC, A
2 Morton Brothers Joint, LLC, A Morton Brothers Joint Intellectual Property, LLC, Michael
3 Morton, and David Morton (together, “Defendants”) hereby move the Court for entry of an order
4 extending the time, through and including June 2, 2017, for all Defendants to file and serve an
5 answer or other response to the Complaint. This is Defendants’ fourth request for a 1-week
6 extension of time. In support of their motion, Defendants state the following:

7 1. Plaintiff filed its Complaint on April 13, 2017.

8 2. The three corporate defendants (A Morton Brothers Joint Management, LLC, A
9 Morton Brothers Joint, LLC, and A Morton Brothers Joint Intellectual Property, LLC) were each
10 served with the Summons and Complaint on April 14, 2017, making their deadline to file and
11 serve an answer or other response to the Complaint May 5, 2017. *See* ECF Nos. 21-23; Fed. R.
12 Civ. P. 12(a)(1)(A) (“A defendant must serve an answer: (i) within 21 days after being served
13 with the summons and complaint”). Defendant Michael Morton was served on April 17, 2017,
14 making his deadline to file and serve an answer or other response to the Complaint May 8, 2017.
15 *See* ECF No. 25; Fed. R. Civ. P. 12(a)(1)(A). And Defendant David Morton was served on April
16 19, 2017, making his deadline to file and serve an answer or other response to the Complaint
17 May 10, 2017. *See* ECF No. 26; Fed. R. Civ. P. 12(a)(1)(A).

18 3. The parties have been and are currently engaged in productive settlement
19 negotiations that are likely to shortly resolve this action.

20 4. On May 4, 2017, Plaintiff’s counsel provided Defendants’ counsel with a
21 proposed settlement agreement.

22 5. On May 5, 2017, Plaintiff’s counsel indicated that Plaintiff would not oppose a
23 motion filed by Defendants to extend the deadline for all Defendants to file and serve their
24 answer or other response to the Complaint to May 12, 2017. Defendants filed the unopposed
25 motion on May 5, 2017. (*See* ECF No. 30.)

26 6. The parties’ settlement negotiations continued.

27 7. On May 10, 2017, Defendants’ counsel forwarded a revised proposed settlement
28 agreement to Plaintiff’s counsel.

1 8. On May 11, Defendants' counsel asked whether Plaintiff's counsel would oppose
2 a second extension of time for Defendants to answer or otherwise respond to the Complaint.
3 Plaintiff's counsel indicated that Plaintiff would not oppose a second extension of time until May
4 19, 2017. Accordingly, on May 12, 2017, Defendants' counsel filed a second unopposed motion.
5 (*See* ECF No. 31.) The Court granted the motion on May 12, 2017, extending the time for all
6 Defendants to answer or otherwise respond to the Complaint to May 19, 2017. (*See* ECF No.
7 32.)

8 9. The parties' settlement negotiations continued.

9 10. On May 15, 2017, Plaintiff's counsel sent revisions to the draft settlement
10 agreement to Defendants' counsel. On May 16, 2017, Defendants' counsel sent further revisions
11 to the settlement agreement to Plaintiff's counsel. On May 19, Plaintiff's counsel sent further
12 revisions to the settlement agreement to Defendants' counsel. On that same date, Plaintiff's
13 counsel filed an unopposed motion seeking an extension of time for all Defendants to answer or
14 otherwise respond to the Complaint to May 26, 2017. (ECF No. 33.) The Court granted the
15 motion. (ECF No. 34.)

16 11. On May 23, 2017, Defendants' counsel sent a revised settlement draft to
17 Plaintiff's counsel, and on May 25, 2017, Plaintiff's counsel and Defendants' counsel discussed
18 the revisions by telephone. During the call, Defendants' undersigned counsel indicated that he
19 would need to discuss the points made by Plaintiff's counsel during the call with Defendants and
20 Defendants' lead counsel, Mr. McCue, who was out of the country attending the 2017
21 International Trademark Association annual meeting in Barcelona, Spain. In light of the
22 foregoing, Defendants' counsel asked Plaintiff's counsel whether Plaintiff would agree not to
23 oppose a fourth request for a 1-week extension of time. Later that day, Plaintiff's counsel sent
24 Defendants' counsel an email indicating that Plaintiff would not oppose an additional one week
25 extension of time.

26 12. The parties believe they are very close to finalizing the settlement agreement.
27 Given the parties' progress towards settlement, the absence of Defendants' lead counsel from the
28 country, and the current May 26 deadline for all Defendants to answer or otherwise respond to

1 the Complaint, Defendants' undersigned counsel asked whether Plaintiff's counsel would oppose
2 a third extension of time for Defendants to answer or otherwise respond to the Complaint.
3 Plaintiff's counsel indicated that Plaintiff would not oppose a third extension of time until May
4 26, 2017.

5 13. Accordingly, in light of the parties' active settlement negotiations, Defendants
6 respectfully request that the Court enter an order extending the deadline to and including June 2,
7 2017, for all Defendants to file and serve an answer or other response to the Complaint.

8 Dated: this 26th day of May, 2017 LEWIS ROCA ROTHGERBER CHRISTIE LLP

9 By: /s/ Jonathan W. Fountain

10 Michael J. McCue

Jonathan W. Fountain

3993 Howard Hughes Parkway, Suite 600

11 Las Vegas, NV 89169

12 Telephone: (702) 949-8200

E-mail: mmccue@lrrc.com

13 E-mail: jfountain@lrrc.com

14 *Attorneys for Defendants*


A Morton Brothers Joint Management, LLC

15 *A Morton Brothers Joint, LLC,*

A Morton Brothers Joint Intellectual Property, LLC,

16 *Michael Morton, and David Morton*

17
18 **IT IS SO ORDERED:**

19
20 

21 UNITED STATES MAGISTRATE JUDGE

22
23 DATED: 6-1-2017

I, Jonathan W. Fountain hereby certify that on the 26th day of May, 2017, I filed a true and accurate copy of the foregoing document entitled, DEFENDANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME FOR ALL DEFENDANTS TO FILE AND SERVE THEIR ANSWERS OR OTHER RESPONSES TO THE COMPLAINT (Fourth Request), via the Court's CM/ECF system, which will send/sent an electronic copy of the same to the following CM/ECF participants:

Dated: this 26th day of May, 2017.

/s/ Jonathan W. Fountain